

APPEAL NO. 041969  
FILED SEPTEMBER 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 19, 2004. The hearing officer determined that the compensable injury of \_\_\_\_\_, includes degenerative joint disease of the right shoulder. The appellant (self-insured) appeals this determination on sufficiency of the evidence grounds and asserts that the treating doctor's testimony "should not be admissible at all." The respondent (claimant) urges affirmance.

DECISION

Affirmed.

As stated above, the self-insured asserts that the testimony of the claimant's treating doctor "should not be admissible at all." We note that the self-insured did not object to the treating doctor being called as a witness at the hearing. Any error was, therefore, waived and will not be addressed for the first time on appeal.

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_, includes degenerative joint disease of the right shoulder. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**PRESIDENT OF THE BOARD OF TRUSTEES  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

---

Edward Vilano  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Gary L. Kilgore  
Appeals Judge